

AMENDED IN ASSEMBLY JUNE 9, 2004

AMENDED IN SENATE MAY 4, 2004

AMENDED IN SENATE APRIL 26, 2004

SENATE BILL

No. 1431

Introduced by Senators Speier and Romero

February 19, 2004

An act to add Section 5058.4 to the Penal Code, and to add Section 1752.05 to the Welfare and Institutions Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 1431, as amended, Speier. Department of Corrections: code of conduct.

Existing law establishes the Department of Corrections for the confinement of persons who have committed crimes. Existing law also establishes the Department of the Youth Authority for the rehabilitation of certain persons who have committed offenses when they were under 18 years of age, as specified. Existing law creates the offices of the Director of Corrections and the Director of the Youth Authority to administer institutions within the jurisdiction of these departments.

This bill would require the directors of those departments to ~~adopt regulations imposing a schedule of~~ *develop and implement disciplinary* sanctions for misconduct by employees. The bill would also require the directors *to ensure that employees who have reported improper governmental activities and who request services from the department are informed of the services available to them and* to adopt a code of conduct ~~that would clearly state, among other things, an employee's responsibility to report employee misconduct and cooperate in any investigation conducted by law enforcement,~~ as specified. The bill

would also ~~provide that each warden of a prison facility and each superintendent of a Department of the Youth Authority facility shall be required to publish specified information relating to~~ *require the departments to post the code of conduct in specified locations and to annually email related information to departmental employees with email access.* The bill would include a statement of legislative findings and declarations regarding conduct in correctional facilities.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares the
2 following:

3 (a) Investigations of the state's correctional facilities
4 conducted by authorities and by the Legislature have revealed the
5 existence of a "code of silence" that has threatened inmates, the
6 integrity of correctional officers, security within the institutions,
7 and public safety.

8 (b) Findings made by the federal court special master in the
9 investigation of the Pelican Bay State Prison confirm that newly
10 hired correctional officers who work for the Department of
11 Corrections are often confronted by this code of silence, which
12 forces good officers to commit crimes or lie or cover up the abuses
13 of their coworkers, and that the department has failed to address
14 the situation in an effective manner.

15 (c) The whistleblower laws applicable to all employees of the
16 state are insufficient to protect those workers at the Department of
17 Corrections and the Department of the Youth Authority who
18 choose to expose the wrongdoing of coworkers or their superiors,
19 and therefore these employees must be provided additional
20 protections to ensure their safety as well as their cooperation in the
21 investigation of wrongdoing within the departments.

22 (d) In order to break the code of silence, the Department of
23 Corrections and the Department of the Youth Authority must adopt
24 a code of conduct that would provide uniform guidance to all
25 workers at these departments, including their duty to report
26 wrongdoing at their workplace, and the protection that may be
27 provided to those who discharge this duty in good faith.

28 SEC. 2. Section 5058.4 is added to the Penal Code, to read:



1 5058.4. (a) The director shall provide for the development
2 and implementation of a disciplinary matrix with offenses and
3 associated punishments applicable ~~equally~~ to all department
4 employees, in order to ensure notice and consistency statewide.

5 (b) The director shall adopt a code of conduct ~~that shall clearly~~
6 ~~state, among other things, an employee's responsibility to report~~
7 ~~employee misconduct, and to cooperate in any investigation~~
8 ~~conducted by local, state, or federal law enforcement agencies or~~
9 ~~their agents. The code of conduct shall specify the kinds of~~
10 ~~behavior that are prohibited or sanctioned, including, but not~~
11 ~~limited to, retaliating against another employee who reports~~
12 ~~improper governmental activities, neglect of duty, gambling or~~
13 ~~sleeping while at work, racial harassment, sexual harassment,~~
14 ~~smuggling contraband into the correctional facility, misuse of state~~
15 ~~property, unnecessary use of force, overfamiliarity with inmates,~~
16 ~~and the causes for discipline listed in Section 19572 of the~~
17 ~~Government Code.~~

18 (c) ~~The director shall develop a program to ensure the~~
19 ~~protection of employees who have reported improper~~
20 ~~governmental activities and who require counseling or personal~~
21 ~~protection. The protections provided employees under this~~
22 ~~program shall be in addition to any other protection for employees~~
23 ~~who report improper governmental activities available under~~
24 ~~existing law.~~

25 (d) ~~Each warden shall be required to publish every six months~~
26 ~~to all employees through the prison's In Service Training Bulletin,~~
27 ~~for all employees of the department.~~

28 (e) *The director shall ensure that employees who have reported*
29 *improper governmental activities and who request services from*
30 *the department are informed of the services available to them.*

31 (f) *The department shall post the code of conduct in locations*
32 *where employee notices are maintained. On July 1, 2005, and*
33 *annually thereafter, the department shall send by electronic mail*
34 *to its employees who have authorized access to electronic mail, the*
35 *following:*

- 36 (1) Information regarding the code of conduct.
- 37 (2) The duty to report misconduct.
- 38 (3) How to report misconduct.
- 39 (4) The duty to fully cooperate during investigations.
- 40 (5) Assurances against retaliation.

1 SEC. 3. Section 1752.05 is added to the Welfare and
2 Institutions Code, to read:

3 1752.05. (a) The director shall provide for the development
4 and implementation of a disciplinary matrix with offenses and
5 associated punishments applicable ~~equally~~ to all department
6 employees, in order to ensure notice and consistency statewide.

7 (b) The director shall adopt a code of conduct ~~that shall clearly~~
8 ~~state, among other things, an employee's responsibility to report~~
9 ~~employee misconduct, and to cooperate in any investigation~~
10 ~~conducted by local, state, or federal law enforcement agencies or~~
11 ~~their agents. The code of conduct shall specify the kinds of~~
12 ~~behavior that are prohibited or sanctioned, including, but not~~
13 ~~limited to, retaliating against another employee who reports~~
14 ~~improper governmental activities, neglect of duty, gambling or~~
15 ~~sleeping while at work, racial harassment, sexual harassment,~~
16 ~~smuggling contraband into the youth authority facility, misuse of~~
17 ~~state property, unnecessary use of force, overfamiliarity with~~
18 ~~inmates, and the causes for discipline listed in Section 19572 of the~~
19 ~~Government Code.~~

20 (c) ~~The director shall develop a program to ensure the~~
21 ~~protection of employees who have reported improper~~
22 ~~governmental activities and who require counseling or personal~~
23 ~~protection. The protections provided employees under this~~
24 ~~program shall be in addition to any other protection for employees~~
25 ~~who report improper governmental activities available under~~
26 ~~existing law.~~

27 (d) ~~Each superintendent shall be required to publish every six~~
28 ~~months for all employees of the department.~~

29 (c) *The director shall ensure that employees who have reported*
30 *improper governmental activities and who request services from*
31 *the department are informed of the services available to them.*

32 (d) *The department shall post the code of conduct in locations*
33 *where employee notices are maintained. On July 1, 2005, and*
34 *annually thereafter, the department shall send by electronic mail*
35 *to its employees who have authorized access to electronic mail,,*
36 *the following:*

37 (1) Information regarding the code of conduct.

38 (2) The duty to report misconduct.

39 (3) How to report misconduct.

40 (4) The duty to fully cooperate during investigations.

- 1 (5) Assurances against retaliation.

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